

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

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IN RE SYNGENTA MASS TORT ACTIONS

----- Judge David R. Herndon

This Document Relates to:

Poletti et al. v. Syngenta AG et al. No. 3:15-cv-01221-DRH

Brase Farms, Inc. et al. v. Syngenta AG et al.
No. 3:15-cv-01374-DRH

Wiemers Farms, Inc. et al v. Syngenta AG et al.
No. 3:15-cv-01379-DRH

ORDER

HERNDON, District Judge:

This matter is before the Court for the purpose of case management. At a hearing on February 18, 2016, the Court ordered the consolidation of all existing Plaintiffs in *Poletti, et al. v. Syngenta Corp., et al.*, No. 3:15-cv-1221-DRH (*Poletti*); *Brase Farms, Inc., et al. v. Syngenta Corp., et al.*, No. 3:15-cv-1374-DRH (*Brase Farms*); and *Wiemers Farms, Inc., et al. v. Syngenta Corp., et al.*, No. 3:15-cv-01379-DRH (*Wiemers Farms*). The Court directed the plaintiffs to file an amended consolidated complaint in the lead case, *Poletti*.

The Amended Consolidated Complaint was filed on March 4, 2016 (Doc. 59 in *Poletti*). The Amended Consolidated Complaint consolidated the claims of all existing Plaintiffs in *Poletti*, *Brase Farms*, and *Wiemers Farms*, with two

exceptions: (1) plaintiffs whose claims were voluntarily dismissed (Kelly and Holly Kost (*Brase Farms*); Arlene Hollis (*Brase Farms*); Phillip Ashley (*Wiemers Farms*); James Lange (*Wiemers Farms*); Dane Smith (*Poletti*)) and (2) plaintiffs whose claims remain pending on the initial complaints (Larry Miller (*Wiemers Farms*); Bradley A. Ferree (*Brase Farms*); and Leroy Tweet (*Poletti*)).

The plaintiffs whose claims were included in the Amended Consolidated Complaint are represented by attorneys associated with the law firms of Heninger, Garrison et al and Onder, Shelton et al (Collectively, the Garrison Consolidated Plaintiffs). The Plaintiffs whose claims remain pending and were not included in the Consolidated Amended Complaint (Larry Miller, Bradley A. Ferree, and Leroy Tweet) are represented by attorneys associated with the Meyers & Flowers law firm.

The purpose of this Order is to clarify matters that have arisen as a result of the filing of the Amended Consolidated Complaint as to the Garrison Consolidated Plaintiffs and to address matters related to Larry Miller, Bradley A. Ferree, and Leroy Tweet. Therefore, for purposes of case management, the Court hereby **ORDERS** as follows:

- (1) The Court consolidates the claims of Larry Miller, Bradley A. Ferree, and Leroy Tweet (hereinafter, the Meyers & Flowers Consolidated Plaintiffs). Further, the Court severs the claims of the Meyers & Flowers Consolidated

Plaintiffs.¹ The Meyers & Flowers Consolidated Plaintiffs are **DIRECTED** to file a consolidated amended complaint in **3:16-cv-00255-DRH** on or before **March 11, 2016**.

(2) Once the consolidated amended complaint has been filed for the Meyers & Flowers Consolidated Plaintiffs, plaintiffs' counsel will be required to file entries of appearance as needed for each plaintiff. Additionally, counsel is **DIRECTED** to file a notice of substitution of counsel in 3:16-cv-00255-DRH clarifying which attorneys now represent the Meyers and Flowers Plaintiffs.

(3) This Order and the filing of the consolidated amended complaint as to the Meyers & Flowers Consolidated Plaintiffs, **MOOTS** the pending motion to dismiss (Doc. 45 in *Poletti*, Doc. 43 in Brase Farms, and Doc. 53 in Wiemers Farms) as to the Meyers & Flowers Consolidated Plaintiffs.

(4) With respect to the Meyers & Flowers consolidated amended complaint, the defendant is **ORDERED** to answer or otherwise plead within 45 days of March 11, 2016.

(5) The filing of the Consolidated Amended Complaint in the *Poletti* matter (Doc. 59) **MOOTS** the pending motion to dismiss ((Doc. 45 in *Poletti*, Doc.

¹ The Court notes that this post-removal severance does not appear to divest the Court of CAFA jurisdiction. See *Cunningham Charter Corp. v. Learjet, Inc.*, 592 F.3d 805 (7th Cir. 2010) (CAFA jurisdiction continues despite post-removal denial of class certification); *Bullard v. Burlington N. Santa Fe Ry. Co.*, 535 F.3d 759, 761 (7th Cir. 2008) (declining, in the context of a mass action, to allow a post-removal filing to affect the court's CAFA jurisdiction because the court "doubt[ed] that anything filed after a notice of removal can affect federal jurisdiction"); *Cooper v. R.J. Reynolds Tobacco Co.*, 586 F. Supp. 2d 1312 (M.D. Florida, Aug. 29, 2008) (Corrigan, J.) (discussing jurisdictional issues related to post-removal severance in actions removed under CAFA).

43 in *Brase Farms*, and Doc. 53 in *Wiemers Farms*) as to the Garrison Consolidated Plaintiffs.

(6) The Court acknowledges the voluntary dismissal, without prejudice, as to the following plaintiffs: Kelly and Holly Kost (*Brase Farms*); Arlene Hollis (*Brase Farms*); Phillip Ashley (*Wiemers Farms*); James Lange (*Wiemers Farms*); and Dane Smith (*Poletti*). The claims of these plaintiffs are **DISMISSED** without prejudice.

(7) Upon the filing of the consolidated amended complaint as to the Meyers & Flowers Consolidated Plaintiffs, all of the plaintiffs in the *Wiemers Farms* docket and the *Brase Farms* docket will have been (1) transferred to the *Poletti* docket; (2) transferred to the Meyers and Flowers Consolidated Plaintiffs docket; or (3) voluntarily dismissed. Accordingly, the *Wiemers Farms* docket and the *Brase Farms* docket will be closed.

(8) All future filings for the Garrison Consolidated Plaintiffs shall contain the following caption:

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS**

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IN RE SYNGENTA MASS TORT ACTIONS

----- **Judge David R. Herndon**

This Document Relates to:

Poletti et al. v. Syngenta AG et al. No. 3:15-cv-01221-DRH

(9) All future filings for the Meyers & Flowers Consolidated Plaintiffs shall contain the following caption:

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS**

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IN RE SYNGENTA MASS TORT ACTIONS

----- **Judge David R. Herndon**

This Document Relates to:

Tweet et al. v. Syngenta AG et al. No. 3:16-cv-00255-DRH

IT IS SO ORDERED.

Dated: March 10, 2016

Digitally signed by
Judge David R.
Herndon
Date: 2016.03.10
13:32:23 -06'00'

United States District Judge